

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA**

Bryan McHowell,

Plaintiff,

vs.

Andrew Saul, Commissioner
of Social Security,

Defendant.

Civil Action No. 6:19-2060-RMG

ORDER

This matter comes before the Court for judicial review of the final decision of the Commissioner of Social Security denying Plaintiff's application for Disability Insurance Benefits ("DIB"). In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to the United States Magistrate Judge for pretrial handling. The Magistrate Judge issued a Report and Recommendation ("R & R") on September 28, 2020, recommending that the decision of the Commissioner be reversed and remanded to the agency because the Administrative Law Judge ("ALJ") failed to properly consider the opinions of two treating physicians, Dr. Lehman and Dr. Schwartz. (Dkt. No. 17 at 15-20). The Commissioner has advised the Court that he does not intend to file objections to the R & R. (Dkt. No. 19).

The Court has reviewed the R & R and the record evidence and finds that the Magistrate Judge has ably addressed the factual and legal issues in this matter. Therefore, the Court **ADOPTS** the Report and Recommendation as the order of this Court, **REVERSES** the decision of the Commissioner pursuant to Sentence Four of 42 U.S.C. § 405(g), and **REMANDS** the matter to the Commissioner for further proceedings consistent with this order. Since this

application for disability benefits has been pending for over five years, the Court directs that an administrative hearing, if required, be conducted in this matter within 120 days of this Order and a decision by the ALJ be issued within 150 days of this Order.

AND IT IS SO ORDERED.

S/ Richard Mark Gergel
Richard Mark Gergel
United States District Judge

Charleston, South Carolina
October 5, 2020